

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
EASTERN DIVISION

KAREN FUENTES,	)	
	)	
Plaintiff,	)	No. 2:21-cv-1010
	)	
v.	)	DEFENDANT’S NOTICE OF REMOVAL
	)	
AGRI-STAR MEAT AND POULTRY, LLC,	)	
	)	
Defendant.	)	
	)	

Defendant Agri-Star Meat and Poultry, LLC (“Agri-Star”) states the following in support of its Notice of Removal of this Action from the Iowa District Court in and for Allamakee County (Case No. LACV026856) to the United District Court for the Northern District of Iowa, Eastern Division, pursuant to 28 U.S.C. §§ 1331, 1441, 1443, and 1446:

1. Removal is timely, as Agri-Star was served 5/18/21. Plaintiff Karen Fuentes (“Fuentes”) filed her Petition and Jury Demand (“Petition”) in State Court on May 11, 2021. (*See* Exhibit 2 (Fuentes’s Petition, Case No. LACV026856) to Agri-Star’s Local Rule 81(a) Statement (“LR 81(a) St.”, filed contemporaneously herewith)). On May 18, 2021, Fuentes served her Petition on Agri-Star’s registered agent (LR 81(a) St., Exhibit 4), thus commencing Agri-Star’s time to remove this Action to this Court. *E.g.*, 28 U.S.C. §§ 1446(b) (removal to be filed within 30 days after service of initial pleading) and 1446(b)(2)(B) (same); *see also* *Murphy Bros, Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347-48 (1999) (holding 30 day time to remove runs from “simultaneous service of the summons and complaint”

or “receipt of the complaint . . . *after and apart* from service of the summons, but *not by mere receipt of the complaint unattended by any formal service.*”) (emphasis added).

2.     Removal is Proper. This Action is appropriately removed to this Court, as this Court has original jurisdiction under 28 U.S.C. § 1331, as Fuentes’s claims arise under “the Constitution, laws, or treaties of the United States” due to her allegations of discrimination pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e). (See LR 81(a) St., Exhibit 3, pp. 4-5); 28 U.S.C. § 1331; *see also Fort Bend Cty., Texas v. Davis*, 139 S. Ct. 1843, 1850 (2019) (“Federal courts exercise jurisdiction over Title VII actions pursuant to 28 U.S.C. § 1331’s grant of general federal-question jurisdiction, and Title VII’s own jurisdictional provision, 42 U.S.C. § 2000e–5(f)(3) (giving federal courts ‘jurisdiction [over] actions brought under this subchapter’”). The Petition asserts claims against Agri-Star for discrimination on the basis of race, national origin, and gender, which Fuentes alleges negatively affected her terms and conditions of employment at Agri-Star and ultimately resulted in her forced resignation. (See LR 81(a) St., Exhibit 3, pp. 4-5, ¶ 25-26.) Fuentes asserts four counts against Agri-Star, including (1) “Violation of Iowa Code Chapter 216.6 and Title VII [of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e)]”; (2) “Wrongful Termination”; (3) “Negligent Retention of Abusive Supervisor, Amber Santoyo”; and (4) “Intentional Infliction of Emotional Distress.” (*Id.* at pp. 4-8.) Accordingly, Fuentes’s claims arise out of the violation of laws of the United States, specifically 42 U.S.C. § 2000(e), which prohibits discrimination in the workplace on the basis of race, sex, or national origin. *E.g.*, 42 U.S.C. § 2000e-2 [Section 703] (“It shall be an unlawful employment practice for an employer . . . to limit, segregate, or classify his employees . . . in any way which would deprive or tend to deprive any individual of employment opportunities or

otherwise adversely affect his status as an employee, because of such individual's race . . . sex, or national origin."'). Fuentes seeks damages for her alleged injuries, including compensatory damages, punitive damages, and attorneys' fees and costs. (*See* LR 81(a) St., Exhibit 3, pp. 5-8.) Agri-Star denies Fuentes's assertions, and intends to file a responsive pleading stating the same.

3. This Court is the District Court of the United States for the District and Division within which this Action is currently pending (Allamakee County, Iowa District Court). 28 U.S.C. §§ 95(a)(2), 1441(a) and 1446(a).

4. Exhibits 1-4 to Agri-Star's LR 81(a) Statement, filed contemporaneously herewith, constitute all the process, pleadings and orders filed in the State Court proceeding to date. Written notice of the filing of this Notice of Removal has been given to all Parties who have appeared in this Action and a copy of this Notice of Removal shall be filed with the Clerk of Court of Iowa District Court in and for Allamakee County.

5. By removing this case to this Court, Agri-Star reserves all rights and defenses, including but not limited to seeking dismissal and all other available grounds for procedural or substantive motions.

WHEREFORE, Defendant Agri-Star requests that this Action, now pending in the Iowa District Court in and for Allamakee County, be removed to the United States District Court for the Northern District of Iowa, Eastern Division, and for such further relief as this Court deems just.

Dated: June 7, 2021

/s/ Joseph W. Younker

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#### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of this document was served upon the persons listed on this document at the addresses indicated by CM/ECF electronic notification this 7TH day of JUNE, 2021. I declare under penalty of perjury that the foregoing is true and correct.

/s/ Ashley Wessels